

#### § 473.36

(3) A statement explaining the Medicare payment consequences of the reconsidered determination.

(4) A statement informing the parties of their appeal rights, including the information concerning what must be included in the request for hearing, the amount in controversy, locations for submitting a request for an administrative hearing and the time period for filing a request.

(b) *Notice to payers.* (1) A PRO must provide written notice of its reconsidered determination to the appropriate Medicare intermediary or carrier within 30 days if the initial determination is modified or reversed.

(2) This notice must contain adequate information to allow the intermediary or carrier to locate the claim file. This must include the name of the beneficiary, the Health Insurance Claim Number, the name of the provider, date of admission, and dates or services for which Medicare payment will not be made.

#### § 473.36 Record of reconsideration.

(a) *PRO requirements.* A PRO must maintain the record of its reconsideration until the later of the following:

(1) Four years after the date on the notice of the PRO's reconsidered determination.

(2) Completion of litigation and the passage of the time period for filing all appeals.

(b) *Contents of the record.* The record of the reconsideration must include:

(1) The initial determination.

(2) The basis for the initial determination.

(3) Documentation of the date of the receipt of the request for reconsideration.

(4) The detailed basis for the reconsidered determination.

(5) Evidence submitted by the parties.

(6) A copy of the notice of the reconsidered determination that was provided to the parties.

(7) Documentation of the delivery or mailing and, if appropriate, the receipt of the notice of the reconsidered determination by the parties.

(c) *Confidentiality.* The record of a PRO reconsideration is subject to prohibitions against disclosure of informa-

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tion as specified in section 1160 of the Act.

#### § 473.38 Effect of a reconsidered determination.

A PRO reconsidered determination is binding upon all parties to the reconsideration unless—

(a) A hearing is requested in accordance with § 473.40 and a final decision rendered; or

(b) The reconsidered determination is later reopened and revised in accordance with § 473.48.

[50 FR 15372, Apr. 17, 1985; 50 FR 41887, Oct. 16, 1985, as amended at 62 FR 25855, May 12, 1997; 62 FR 49938, Sept. 24, 1997]

#### § 473.40 Beneficiary's right to a hearing.

(a) *Amount in controversy.* If the amount in controversy is at least \$200, a beneficiary (but not a provider or practitioner) who is dissatisfied with a PRO reconsidered determination may obtain a hearing by an administrative law judge (ALJ) of the Office of Hearings and Appeals of the SSA.

(b) *Subject matter.* A beneficiary has a right to a hearing on the following issues:

(1) Reasonableness of the services.

(2) Medical necessity of the services.

(3) Appropriateness of the setting in which the services were furnished.

(c) *Governing provisions.* The provisions of subpart G, Reconsiderations and Appeals under the Hospital Insurance Program, of part 405 of this chapter apply to hearings and appeals under this subpart unless they are inconsistent with specific provisions in this subpart. References in subpart G to initial and reconsidered determinations made by an intermediary, carrier, or HCFA should be read to mean initial and reconsidered determinations made by a PRO.

[50 FR 15372, Apr. 17, 1985; 50 FR 41887, Oct. 16, 1985]

#### § 473.42 Submitting a request for a hearing.

(a) *Where to submit the written request.*

A beneficiary who wants to obtain a hearing under § 473.40 must submit a written request to one of the following: